IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Appeal No.236 of 2007
In
Notice of Motion No.3564 of 2003
In
Counter Claim (Lodg.) No.3189 of 2003
In
Suit No.831 of 2003

Mohammed Khalil Khan & Anr. .. Appellants

Vs.

Najeebunissa w/o.Mohammed Shami
& Ors. .. Respondents

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Shri Atul G.Damle for the appellants.

None present for Respondent No.1.

Smt. Shweta Doshi for the Respondent Nos.2 to 6.

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CORAM : R.M.S.KHANDEPARKAR &
D.G.KARNIK, JJ

DATED : 5TH APRIL, 2007

P.C.

1. Heard the learned advocate for the appellants.

2. This appeal arises from the order dated 12th January, 2007 passed by the Learned Single Judge in Notice of Motion No.3564 of 2003. By the impugned order, the Learned Single Judge has dismissed the notice of motion holding that the appellants have

failed to make out a prima facie case in relation to the suit flats in respect of which the relief of temporary injunction was asked for. The findings arrived at by the Learned Single Judge on the basis of the materials placed on record disclose that the registered conveyance in relation to the suit flats stands in favour of the defendants other than the defendant Nos.1 and 2 who had asked for the relief in question. Being so, there is no question of interference in the impugned order as the same discloses proper assessment of the materials on record and the findings arrived at cannot be faulted with. Merely because some correspondence prior to the sale deed disclosed some payment of money by the deceased father of the parties, that by itself will not be a sufficient cause for interference in the impugned order more particularly when there is no challenge to the sale deed in question. Hence, there being no case made out for interference in the impugned order, the appeal is dismissed.

(R.M.S.KHANDEPARKAR, J)

(D.G.KARNIK, J)